



U.S. Department of Justice

Federal Bureau of Investigation

Clarksburg, WV 26306

June 13, 2011

Honorable Dennis K. Burke  
U.S. Attorney  
District of Arizona  
Two Renaissance Square  
40 North Central Avenue, Suite 1200  
Phoenix, AZ 85004-4408

Dear Mr. Burke:

Your letter to FBI Director Robert S. Mueller, III, dated May 2, 2011, regarding tribal compliance with the Sex Offender Registration and Notification Act (SORNA) requirements, was forwarded to me for response. I would like to take this opportunity to clarify the FBI Criminal Justice Information Services (CJIS) Division's processes and provide details of the efforts the CJIS Division has undertaken to assist the tribes in gaining access to our systems.

The CJIS Division likens tribal criminal justice agencies to federal agencies and authorizes these agencies full access to CJIS systems. Technically, tribal agencies can obtain access through any existing federal or state CJIS System Agency (CSA). The CSA is a criminal justice agency that has overall responsibility for the administration and usage of the CJIS Division's programs within a state, district, territory, or foreign country, or in the case of a federal CSA, multiple agencies, states, or territories. The Arizona Department of Public Safety (DPS) has supported the tribal law enforcement agencies with access to the National Crime Information Center (NCIC) and the Integrated Automated Fingerprint Identification System (IAFIS). The exception to this access, based on DPS's interpretation of Arizona's statutes, is the ability to enter records into the National Sex Offender Registry (NSOR), which is a file within the NCIC System.

In regard to the submission of fingerprints and palmprints to the FBI, the IAFIS is a separate system from NCIC and is currently being upgraded. This upgrade effort is known as the Next Generation Identification Program. To electronically submit criminal prints to IAFIS, an agency must connect through a CSA. The tribes in Arizona have been submitting criminal prints through DPS for some time. Within IAFIS, the criminal charge is captured in a literal text field, and there is no requirement for criminal code citation. If a submission contained a code citation without a literal translation, it would not be accepted. Recently, the CJIS Division changed policy and now accepts "sex offender registration" as a valid criminal charge in the literal text field. For agencies unable to submit electronically to IAFIS, the CJIS Division accepts paper fingerprint and palmprint cards.

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Prior to the enactment of SORNA, the CJIS Division presented alternative connectivity models to enable tribal criminal justice agencies that are not supported by an existing CSA to electronically connect to CJIS Division systems. It would be cost-prohibitive for both the federal government and the tribes to establish each recognized tribe as a CSA. Based on a study conducted in 2007, the initial technical cost for the tribe would be approximately \$1 million for the message switch system and telecommunications, with a recurring monthly technical cost of \$15,000. These amounts are for NCIC connectivity only and do not include administrative and personnel costs. In addition, the CJIS Division attempted to identify a federal agency that would serve as a CSA for the tribes. In 2005, the U.S. Department of Interior (DOI) advised that it would assume that role. Currently, all DOI agencies, including the Bureau of Indian Affairs, connect to NCIC via the state system where they reside. After expenditures by both the FBI and DOI, in 2011, the DOI advised that it was no longer in a position to support this initiative. In 2010, the U.S. Department of Justice indicated that it could support a limited number of tribal agencies on its system and identified 26 agencies to connect.

Another alternative the CJIS Division has offered is for the tribes to establish a regional system to connect to CJIS systems. The CJIS Division would recognize up to ten tribes as CSAs who would, in turn, serve other tribes in their region. Under this model, the tribes could distribute the cost of developing a system that can connect to the CJIS Division.

The CJIS Division has been working with the Department of Justice's Sex Offender Monitoring, Apprehending, Registering and Tracking (SMART) Office to distribute information regarding CJIS systems to the tribes and developing solutions for electronic access. Also, my staff has presented at numerous conferences, symposiums, etc., regarding sex offender, protection order, and crime statistics issues at which tribal access has been discussed. Currently, we are working with the SMART Office to establish a temporary process to include tribal agency records in the NSOR.

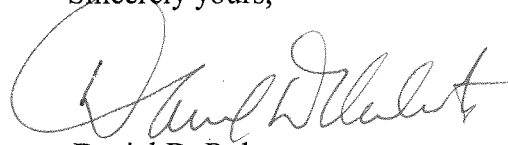
In addition to the tribal representation in the CJIS Advisory Process identified in your letter, there is one individual representing tribal law enforcement on the Advisory Policy Board (APB) who has sufficient knowledge of issues and challenges facing tribal law enforcement at the policy-making level, in order to provide counsel to the APB. Mr. Joseph J. LaPorte, Senior Tribal Advisor, Office of the Director of National Intelligence, and member of the Little River Band of the Ottawa Indians, is this representative. The APB includes four regional and one federal Working Group. Each regional Working Group has one tribal law enforcement representative, and the federal Working Group has a member from DOI. The APB reviews policy issues, Uniform Crime Reporting reports, and appropriate technical/operational issues related to CJIS Division systems and makes appropriate recommendations to the Director of the FBI. The issues regarding connectivity by the tribes to CJIS Division systems involve fiscal and administrative issues and generally would not fall under the purview of the APB.

The CJIS Division is willing to provide assistance to ensure all tribes have a means to electronically connect to CJIS systems. It would be beneficial for some federal entity to liaise with the tribes to determine which tribal law enforcement agencies could serve as regional CSAs and identify the tribes these CSAs would serve. This liaison role would involve a thorough understanding of state-to-tribe and tribe-to-tribe relationships and is outside the CJIS Division's scope.

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I would like to offer the CJIS Division's support to the tribes in these endeavors through participation in any meetings, conferences, etc., where our expertise could be of assistance. If you need any additional information, please contact Kimberly K. Smith, NCIC Operations and Policy Unit at (304) 625-2761, or via email at <kimberly.smith@leo.gov>.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Daniel D. Roberts". The signature is fluid and cursive, with a large initial "D" and "R".

Daniel D. Roberts  
Assistant Director  
Criminal Justice Information  
Services Division